

Last revised: August 1, 2017

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In Re:
Harold & Cheryl Davis

Case No.: 17-18809
Judge: KCF

Debtor(s)

Chapter 13 Plan and Motions

☐ Original ☒ Modified/Notice Required Date: 8/4/2017
☐ Motions Included ☐ Modified/No Notice Required

THE DEBTOR HAS FILED FOR RELIEF UNDER
CHAPTER 13 OF THE BANKRUPTCY CODE

YOUR RIGHTS MAY BE AFFECTED

You should have received from the court a separate *Notice of the Hearing on Confirmation of Plan*, which contains the date of the confirmation hearing on the Plan proposed by the Debtor. This document is the actual Plan proposed by the Debtor to adjust debts. You should read these papers carefully and discuss them with your attorney. Anyone who wishes to oppose any provision of this Plan or any motion included in it must file a written objection within the time frame stated in the *Notice*. Your rights may be affected by this plan. Your claim may be reduced, modified, or eliminated. This Plan may be confirmed and become binding, and included motions may be granted without further notice or hearing, unless written objection is filed before the deadline stated in the Notice. The Court may confirm this plan, if there are no timely filed objections, without further notice. See Bankruptcy Rule 3015. If this plan includes motions to avoid or modify a lien, the lien avoidance or modification may take place solely within the chapter 13 confirmation process. The plan confirmation order alone will avoid or modify the lien. The debtor need not file a separate motion or adversary proceeding to avoid or modify a lien based on value of the collateral or to reduce the interest rate. An affected lien creditor who wishes to contest said treatment must file a timely objection and appear at the confirmation hearing to prosecute same.

THIS PLAN:

☐ DOES ☒ DOES NOT CONTAIN NON-STANDARD PROVISIONS. NON-STANDARD PROVISIONS MUST ALSO BE SET FORTH IN PART 10.

☐ DOES ☒ DOES NOT LIMIT THE AMOUNT OF A SECURED CLAIM BASED SOLELY ON VALUE OF COLLATERAL, WHICH MAY RESULT IN A PARTIAL PAYMENT OR NO PAYMENT AT ALL TO THE SECURED CREDITOR. SEE MOTIONS SET FORTH IN PART 7, IF ANY.

☐ DOES ☒ DOES NOT AVOID A JUDICIAL LIEN OR NONPOSSESSORY, NONPURCHASE-MONEY SECURITY INTEREST. SEE MOTIONS SET FORTH IN PART 7, IF ANY.

Initial Debtor(s)' Attorney: JC

Initial Debtor: HD

Initial Co-Debtor: CD

Part 1: Payment and Length of Plan

a. The debtor shall pay \$ 162 per _____ to the Chapter 13 Trustee, starting on _____ for approximately 55 months.

b. The debtor shall make plan payments to the Trustee from the following sources:

☒ Future earnings

☐ Other sources of funding (describe source, amount and date when funds are available):

c. Use of real property to satisfy plan obligations:

☐ Sale of real property

Description:

Proposed date for completion: _____

☐ Refinance of real property:

Description:

Proposed date for completion: _____

☐ Loan modification with respect to mortgage encumbering property:

Description:

Proposed date for completion: _____

d. ☐ The regular monthly mortgage payment will continue pending the sale, refinance or loan modification.

e. ☐ Other information that may be important relating to the payment and length of plan:

Part 2: Adequate Protection ☒ NONE

a. Adequate protection payments will be made in the amount of \$ _____ to be paid to the Chapter 13 Trustee and disbursed pre-confirmation to _____ (creditor).

b. Adequate protection payments will be made in the amount of \$ _____ to be paid directly by the debtor(s) outside the Plan, pre-confirmation to: _____ (creditor).

Part 3: Priority Claims (Including Administrative Expenses)

a. All allowed priority claims will be paid in full unless the creditor agrees otherwise:

Creditor	Type of Priority	Amount to be Paid
CHAPTER 13 STANDING TRUSTEE	ADMINISTRATIVE	AS ALLOWED BY STATUTE
ATTORNEY FEE BALANCE	ADMINISTRATIVE	BALANCE DUE: \$ 3500 + 400 post petition
DOMESTIC SUPPORT OBLIGATION		

- b. Domestic Support Obligations assigned or owed to a governmental unit and paid less than full amount:
Check one:
☒ None
☐ The allowed priority claims listed below are based on a domestic support obligation that has been assigned to or is owed to a governmental unit and will be paid less than the full amount of the claim pursuant to 11 U.S.C.1322(a)(4):

Creditor	Type of Priority	Claim Amount	Amount to be Paid
Internal Revenue Service	Domestic Support Obligations assigned or owed to a governmental unit and paid less than full amount:		\$4330.21

Part 4: Secured Claims

a. Curing Default and Maintaining Payments on Principal Residence: ☒ NONE

The Debtor will pay to the Trustee (as part of the Plan) allowed claims for arrearages on monthly obligations and the debtor shall pay directly to the creditor (outside the Plan) monthly obligations due after the bankruptcy filing as follows:

Creditor	Collateral or Type of Debt	Arrearage	Interest Rate on Arrearage	Amount to be Paid to Creditor (In Plan)	Regular Monthly Payment (Outside Plan)

b. Curing and Maintaining Payments on Non-Principal Residence & other loans or rent arrears: ☒ NONE

The Debtor will pay to the Trustee (as part of the Plan) allowed claims for arrearages on monthly obligations and the debtor will pay directly to the creditor (outside the Plan) monthly obligations due after the bankruptcy filing as follows:

Creditor	Collateral or Type of Debt	Arrearage	Interest Rate on Arrearage	Amount to be Paid to Creditor (In Plan)	Regular Monthly Payment (Outside Plan)

c. Secured claims excluded from 11 U.S.C. 506: ☒ NONE

The following claims were either incurred within 910 days before the petition date and are secured by a purchase money security interest in a motor vehicle acquired for the personal use of the debtor(s), or incurred within one year of the petition date and secured by a purchase money security interest in any other thing of value:

Name of Creditor	Collateral	Interest Rate	Amount of Claim	Total to be Paid through the Plan Including Interest Calculation

d. Requests for valuation of security, Cram-down, Strip Off & Interest Rate Adjustments ☒ NONE

1.) The debtor values collateral as indicated below. If the claim may be modified under Section 1322(b)(2), the secured creditor shall be paid the amount listed as the "Value of the Creditor Interest in Collateral," plus interest as stated. The portion of any allowed claim that exceeds that value shall be treated as an unsecured claim. If a secured claim is identified as having "NO VALUE" it shall be treated as an unsecured claim.

NOTE: A modification under this Section ALSO REQUIRES the appropriate motion to be filed under Section 7 of the Plan.

Creditor	Collateral	Scheduled Debt	Total Collateral Value	Superior Liens	Value of Creditor Interest in Collateral	Annual Interest Rate	Total Amount to be Paid

2.) Where the Debtor retains collateral and completes the Plan, payment of the full amount of the allowed secured claim shall discharge the corresponding lien.

e. Surrender ☐ NONE

Upon confirmation, the stay is terminated as to surrendered collateral only under 11 U.S.C. 362(a) and that the stay under 11 U.S.C 1301 be terminated in all respects. The Debtor surrenders the following collateral:

Creditor	Collateral to be Surrendered	Value of Surrendered Collateral	Remaining Unsecured Debt
Toyota Motor Credit	2012 Cadillac SRX	\$10,700	\$25060.43

f. Secured Claims Unaffected by the Plan ☒ NONE

The following secured claims are unaffected by the Plan:

g. Secured Claims to be Paid in Full Through the Plan: <input checked="" type="checkbox"/> NONE		
Creditor	Collateral	Total Amount to be Paid Through the Plan

Part 5: Unsecured Claims ☒ NONE

a. Not separately classified allowed non-priority unsecured claims shall be paid:

- ☒ Not less than \$ 0 to be distributed *pro rata*
☐ Not less than _____ percent
☐ *Pro Rata* distribution from any remaining funds

b. Separately classified unsecured claims shall be treated as follows:

Creditor	Basis for Separate Classification	Treatment	Amount to be Paid

Part 6: Executory Contracts and Unexpired Leases ☐ NONE

(NOTE: See time limitations set forth in 11 U.S.C. 365(d)(4) that may prevent assumption of non-residential real property leases in this Plan.)

All executory contracts and unexpired leases, not previously rejected by operation of law, are rejected, except the following, which are assumed:

Creditor	Arrears to be Cured in Plan	Nature of Contract or Lease	Treatment by Debtor	Post-Petition Payment
Ford Credit	\$315	auto lease	assumed	\$315

Part 7: Motions ☒ NONE

NOTE: All plans containing motions must be served on all potentially affected creditors, together with local form, *Notice of Chapter 13 Plan Transmittal*, within the time and in the manner set forth in D.N.J. LBR 3015-1. A *Certification of Service, Notice of Chapter 13 Plan Transmittal and valuation* must be filed with the Clerk of Court when the plan and transmittal notice are served.

a. Motion to Avoid Liens Under 11. U.S.C. Section 522(f). ☒ NONE

The Debtor moves to avoid the following liens that impair exemptions:

Creditor	Nature of Collateral	Type of Lien	Amount of Lien	Value of Collateral	Amount of Claimed Exemption	Sum of All Other Liens Against the Property	Amount of Lien to be Avoided

b. Motion to Avoid Liens and Reclassify Claim from Secured to Completely Unsecured. ☒ NONE

The Debtor moves to reclassify the following claims as unsecured and to void liens on collateral consistent with Part 4 above:

Creditor	Collateral	Scheduled Debt	Total Collateral Value	Superior Liens	Value of Creditor's Interest in Collateral	Total Amount of Lien to be Reclassified

c. Motion to Partially Void Liens and Reclassify Underlying Claims as Partially Secured and Partially Unsecured. ☒ NONE

The Debtor moves to reclassify the following claims as partially secured and partially unsecured, and to void liens on collateral consistent with Part 4 above:

Creditor	Collateral	Scheduled Debt	Total Collateral Value	Amount to be Deemed Secured	Amount to be Reclassified as Unsecured

Part 8: Other Plan Provisions

a. Vesting of Property of the Estate

- ☒ Upon confirmation
☐ Upon discharge

b. Payment Notices

Creditors and Lessors provided for in Parts 4, 6 or 7 may continue to mail customary notices or coupons to the Debtor notwithstanding the automatic stay.

c. Order of Distribution

The Standing Trustee shall pay allowed claims in the following order:

- 1) Ch. 13 Standing Trustee commissions
- 2) Administrative Expenses
- 3) Secured Claims
- 4) Priority Claims & 5) General Unsecured Claims

d. Post-Petition Claims

The Standing Trustee ☐ is, ☒ is not authorized to pay post-petition claims filed pursuant to 11 U.S.C. Section 1305(a) in the amount filed by the post-petition claimant.

Part 9: Modification ☐ NONE

If this Plan modifies a Plan previously filed in this case, complete the information below.

Date of Plan being modified: 4/28/2017.

Explain below **why** the plan is being modified:

Toyota filed a secured claim on a 2012 Cadillac SRX they previously repossessed. This plan is now surrendering that vehicle

Explain below **how** the plan is being modified:

Surrendering 2012 Cadillac SRX
Adding post petition fees into plan

Are Schedules I and J being filed simultaneously with this Modified Plan? ☐ Yes ☒ No

Part 10: Non-Standard Provision(s): Signatures Required

Non-Standard Provisions Requiring Separate Signatures:

☐ NONE

☒ Explain here:

This is a non discharge case as debtors received a discharge in a Chapter 7 in 2015. Debtors are not paying 100% to unsecured and are aware that will still be responsible for any debt not paid through this plan. Debtors cannot afford to pay 100% to unsecured creditors.

Any non-standard provisions placed elsewhere in this plan are void.

The Debtor(s) and the attorney for the Debtor(s), if any, must sign this Certification.

I certify under penalty of perjury that the plan contains no non-standard provisions other than those set forth in this final paragraph.

Date: 8/4/2017

/s/James J Cerbone
Attorney for the Debtor

Date: 8/4/2017

/s/Harold Davis
Debtor

Date: 8/4/2017

/s/Cheryl Davis
Joint Debtor

Signatures

The Debtor(s) and the attorney for the Debtor(s), if any, must sign this Plan.

Date: 8/4/2017

/s/James J Cerbone
Attorney for the Debtor

I certify under penalty of perjury that the above is true.

Date: 8/4/2017

/s/Harold Davis
Debtor

Date: 8/4/2017

/s/Cheryl Davis
Joint Debtor

Certificate of Notice Page 11 of 12
 United States Bankruptcy Court
 District of New Jersey

In re:
 Harold Davis
 Cheryl Davis
 Debtors

Case No. 17-18809-KCF
 Chapter 13

CERTIFICATE OF NOTICE

District/off: 0312-3

User: admin
 Form ID: pdf901

Page 1 of 2
 Total Noticed: 28

Date Rcvd: Aug 07, 2017

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Aug 09, 2017.

db/jdb
 cr +Harold Davis, Cheryl Davis, 12 Courtney Lane, Manchester Township, NJ 08759-6030
 +First Financial Federal Credit Union, McKenna, DuPont, Higgins & Stone, PO Box 610,
 229 Broad Street, Red Bank, NJ 07701-2009
 516805602 ++FORD MOTOR CREDIT COMPANY, P O BOX 62180, COLORADO SPRINGS CO 80962-2180
 (address filed with court: Ford Motor Credit Company, LLC, Dept 55953 P.O. Box 55000,
 Detroit, MI 48255-0953)
 516797847 Fingerhut, PO Box 166, Newark, NJ 07101-0166
 516797849 First National Credit Card, PO Box 2496, Omaha, NE 68103-2496
 516797850 +First Premier Bank, PO Box 5514, Sioux Falls, SD 57117-5514
 516797851 First Savings Credit Card, PO Box 2509, Omaha, NE 68103-2509
 516797852 +Ford Credit, PO Box 542000, Omaha, NE 68154-8000
 516797854 Mazzoni Law Firm, 1170 East Landis Avenue, Vineland, NJ 08360-4230
 516797855 +Midamerica Bank, 5109 S Broadband Lane, Sioux Falls, SD 57108-2208
 516797856 Midamerica/Milestone, PO box 4449, Beaverton, OR 97076
 516797858 +Ocean Orthopedic Associates PA, 530 Lakehurst Road, 1st floor, Toms River, NJ 08755-8063
 516797859 +Professional Orthopaedics of Toms River, 1430 Hooper Ave # 101, Toms River, NJ 08753-2895
 516797860 Raymour & Flanigan, PO Box 130, Liverpool, NY 13088-0130
 516797861 +Renee Falivene DDS, 232 Norwood Avenue, West Long Branch, NJ 07764-1859
 516797862 Stoneberry, PO Box 2820, Monroe, WI 53566-8020
 516929235 +TD Retail Card Services, c/o Creditors Bankruptcy Service, P O Box 800849,
 Dallas, TX 75380-0849
 516825382 +Toyota Motor Credit Corporation (See 410), PO Box 9013, Addison, Texas 75001-9013

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
 smg E-mail/Text: usanj.njbankr@usdoj.gov Aug 07 2017 22:27:32 U.S. Attorney, 970 Broad St.,
 Room 502, Rodino Federal Bldg., Newark, NJ 07102-2534

smg +E-mail/Text: ustpreion03.ne.ecf@usdoj.gov Aug 07 2017 22:27:29 United States Trustee,
 Office of the United States Trustee, 1085 Raymond Blvd., One Newark Center, Suite 2100,
 Newark, NJ 07102-5235
 516797846 +E-mail/PDF: creditonebknotifications@resurgent.com Aug 07 2017 22:23:53 Credit One Bank,
 PO Box 98875, Las Vegas, NV 89193-8875
 516797848 +E-mail/Text: nculp@firstffcu.com Aug 07 2017 22:28:16 First Financial FCU, PO Box 1172,
 Toms River, NJ 08754-1172
 516879469 E-mail/Text: danielle@redbanklaw.com Aug 07 2017 22:26:49
 First Financial Federal Credit Union, C/O McKenna, DuPont, Higgins & Stone, PC, PO Box 610,
 Red Bank, NJ 07701-0610
 516797853 E-mail/Text: cio.bncmail@irs.gov Aug 07 2017 22:27:10 Internal Revenue Service,
 PO Box 7346, Philadelphia, PA 19101-7346
 516930370 E-mail/PDF: resurgentbknotifications@resurgent.com Aug 07 2017 22:24:10
 LVNV Funding, LLC its successors and assigns as, assignee of FNBK, LLC,
 Resurgent Capital Services, PO Box 10587, Greenville, SC 29603-0587
 516797857 E-mail/Text: ebn@barnabashealth.org Aug 07 2017 22:27:52 Monmouth Medical Center,
 PO Box 29962, New York, NY 10087-9962
 516978616 E-mail/Text: bnc-quantum@quantum3group.com Aug 07 2017 22:27:23
 Quantum3 Group LLC as agent for, Sadino Funding LLC, PO Box 788,
 Kirkland, WA 98083-0788
 516797863 E-mail/Text: bankruptcy@td.com Aug 07 2017 22:27:34 TD Bank, PO Box 1377,
 Lewiston, ME 04243-1377

TOTAL: 10

***** BYPASSED RECIPIENTS (undeliverable, * duplicate) *****

516867622* ++FORD MOTOR CREDIT COMPANY, P O BOX 62180, COLORADO SPRINGS CO 80962-2180
 (address filed with court: Ford Motor Credit Company, LLC, PO BOX 62180,
 COLORADO SPRINGS CO 80962-4400)

TOTALS: 0, * 1, ## 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
 USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

Addresses marked '++' were redirected to the recipient's preferred mailing address
 pursuant to 11 U.S.C. 342(f)/Fed.R.Bank.PR.2002(g)(4).

District/off: 0312-3

User: admin
Form ID: pdf901

Page 2 of 2
Total Noticed: 28

Date Rcvd: Aug 07, 2017

***** BYPASSED RECIPIENTS (continued) *****

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Aug 09, 2017

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on August 4, 2017 at the address(es) listed below:

Albert Russo docs@russotrustee.com
Denise E. Carlon on behalf of Creditor Toyota Motor Credit Corporation
dcarlon@kmlawgroup.com, bkgroup@kmlawgroup.com
James J. Cerbone on behalf of Joint Debtor Cheryl Davis cerbonelawfirm@aol.com
James J. Cerbone on behalf of Debtor Harold Davis cerbonelawfirm@aol.com
Michael R. DuPont on behalf of Creditor First Financial Federal Credit Union
dupont@redbanklaw.com, dana@redbanklaw.com
U.S. Trustee. USTPRegion03.NE.ECF@usdoj.gov

TOTAL: 6